

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TRAVIS DELANEY WILLIAMS,

Plaintiff,

v.

Case No. 14-C-1594

REBECCA SWENSON, et al.,

Defendants.

ORDER

On March 1, 2018, the court granted defendants' motions for summary judgment and dismissed this case. Plaintiff filed a notice of appeal on March 21, 2018. He has filed a motion for leave to appeal without prepayment of the filing fee (*in forma pauperis*) and a motion to waive the initial partial filing fee.

Under the Prison Litigation Reform Act (PLRA), a prisoner must pay the applicable filing fees in full for a civil action or appeal. 28 U.S.C. § 1915(b). If a prisoner does not have the money to pay the \$505.00 filing fee in advance for an appeal, he can request leave to proceed *in forma pauperis*.

There are three grounds for denying a prisoner's request to proceed *in forma pauperis*: the prisoner has not established indigence, the appeal is in bad faith, or the prisoner has three strikes. *See* 28 U.S.C. §§ 1915(a)(2)-(3), (g). The court finds that plaintiff has established that he is indigent and that he has not accrued three strikes. That leaves only the question of whether plaintiff filed this appeal in good faith.

A district court should not apply an inappropriately high standard when making a good faith determination. *Pate v. Stevens*, 163 F.3d 437, 439 (7th Cir. 1998). An appeal taken in "good faith" is one that seeks review of any issue that is not frivolous, meaning that it involves "legal points arguable on their merits." *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983) (quoting *Anders v. California*, 386 U.S. 738 (1967)). The court does not find any indication that plaintiff's appeal is not taken in good faith, so it will grant his motion.

The PLRA also requires that, before a prisoner may proceed with his appeal, he must pay an initial partial filing fee. Along with his request to proceed *in forma pauperis*, plaintiff filed a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of his notice of appeal. A review of this information reveals that plaintiff is required to pay an initial partial filing fee of \$1.38. Plaintiff has filed a motion asking the court to waive this fee. He explains that he does not have money in his account to pay an initial partial filing fee. Plaintiff's trust account statement confirms plaintiff's assertion, so the court will grant his motion to waive that fee. Plaintiff may pay the full filing fee over time, under 28 U.S.C. § 1915(b)(2). *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997).

THEREFORE, IT IS ORDERED that plaintiff's motion for leave to proceed on appeal without prepayment of the filing fee (ECF No. 244) is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's motion to waive the initial partial filing fee (ECF No. 246) is **GRANTED**.

IT IS FURTHER ORDERED that the agency having custody of plaintiff shall collect from his institution trust account the \$505.00 filing fee by collecting monthly payments from plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to

plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action and the appeal. If plaintiff is transferred to another county, state, or federal institution, the transferring institution shall forward a copy of this Order along with plaintiff's remaining balance to the receiving institution.

IT IS FURTHER ORDERED that a copy of this order be sent to the officer in charge of the agency where plaintiff is confined.

IT IS FURTHER ORDERED that a copy of this order be sent to PLRA Attorney, United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn Street, Rm. 2722, Chicago, Illinois 60604.

Signed in Green Bay, Wisconsin, this 23rd day of March, 2018.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court